

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

UNITED STATES OF AMERICA,

Case No. 18-cr-20107

v.

TONY BRATTAIN,

Plaintiff,

F I L E D
APR 18 2018
U.S. DISTRICT COURT
FLINT, MICHIGAN

LINDA V. PARKER
United States District Judge

STEPHANIE DAWKINS DAVIS
United States Magistrate Judge

Defendant.

FIRST SUPERSEDING INDICTMENT

THE GRAND JURY CHARGES:

Count One

Aiding & Assisting in the Preparation and Presenting of a False Tax Return
26 U.S.C. §7206(2)

On or about October 20, 2010, in the Eastern District of Michigan, TONY BRATTAIN, did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the Internal Revenue Service, of an Amended U.S. Individual Income Tax Return, Form 1040X, a U.S. Individual Income Tax Return, Form 1040, along with accompanying schedules, of TB for the calendar year 2008. The return was false and fraudulent as to a material matter, in that the return falsely classified \$35,176.00 as capital gains when defendant then and there knew the monies should have been reported as ordinary income. Defendant further knew that the return was false and fraudulent as to a material matter, in that the

return falsely under reported taxable income interest earned (partnership income) in the amount of \$46,952.00; in violation of Title 26, United States Code, Section 7206(2).

Count Two

*Aiding & Assisting in the Preparation and Presenting of a False Tax Return
26 U.S.C. §7206(2)*

On or about October 20, 2010, in the Eastern District of Michigan, TONY BRATTAIN, did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the Internal Revenue Service, of a U.S. Individual Income Tax Return, Form 1040, along with accompanying schedules, of TB for the calendar year 2009. The return was false and fraudulent as to a material matter, in that the return falsely classified \$1,512,568.00 as capital gains when defendant then and there knew the monies should have been reported as ordinary income. Defendant further knew that the return was false and fraudulent as to a material matter, in that the return falsely under reported taxable interest income (partnership income) earned in the amount of \$178,438.00; in violation of Title 26, United States Code, Section 7206(2).

Count Three

*Aiding & Assisting in the Preparation and Presenting of a False Tax Return
26 U.S.C. §7206(2)*

On or about April 10, 2011, in the Eastern District of Michigan, TONY BRATTTAIN, did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the Internal Revenue Service, of a U.S. Individual Income Tax Return, Form 1040, along with accompanying schedules, of TB for the calendar year 2010. The return was false and fraudulent as to a material matter, in that the return falsely classified \$688,429.00 as capital gains when defendant then and there knew the monies should have been reported as ordinary income; in violation of Title 26, United States Code, Section 7206(2).

Count Four

*Aiding & Assisting in the Preparation and Presenting of a False Tax Return
26 U.S.C. §7206(2)*

On or about October 20, 2010, in the Eastern District of Michigan, TONY BRATTTAIN, did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the Internal Revenue Service, of an Amended U.S. Individual Income Tax Return, Form 1040X, a U.S. Individual Income Tax Return, Form 1040, along with accompanying schedules, of JK for the calendar year 2008. The return was false and fraudulent as to a material matter, in that the return falsely classified

\$24,918.00 as capital gains when defendant then and there knew the monies should have been reported as ordinary income; in violation of Title 26, United States Code, Section 7206(2).

Count Five

*Aiding & Assisting in the Preparation and Presenting of a False Tax Return
26 U.S.C. §7206(2)*

On or about October 20, 2010, in the Eastern District of Michigan, TONY BRATTAIN, did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the Internal Revenue Service, of a U.S. Individual Income Tax Return, Form 1040, along with accompanying schedules, of JK for the calendar year 2009. The return was false and fraudulent as to a material matter, in that the return falsely classified \$786,600.00 as capital gains when defendant then and there knew the monies should have been reported as ordinary income. Defendant further knew that the return was false and fraudulent as to a material matter, in that the return falsely under reported taxable interest income (partnership income) earned in the amount of \$205,757.00; in violation of Title 26, United States Code, Section 7206(2).

Count Six

*Aiding & Assisting in the Preparation and Presenting of a False Tax Return
26 U.S.C. §7206(2)*

On or about April 10, 2011, in the Eastern District of Michigan, TONY BRATTAIN, did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the Internal Revenue Service, of a U.S. Individual Income Tax Return, Form 1040, along with accompanying schedules, of JK for the calendar year 2010. The return was false and fraudulent as to a material matter, in that the return falsely classified \$172,292.00 as capital gains when defendant then and there knew the monies should have been reported as ordinary income; in violation of Title 26, United States Code, Section 7206(2).

Count Seven

*Aiding & Assisting in the Preparation and Presenting of a False Tax Return
26 U.S.C. §7206(2)*

On or about April 5, 2010, in the Eastern District of Michigan, TONY BRATTAIN, did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the Internal Revenue Service, of a U.S. Income Tax Return for an S Corporation, Form 1120S along with accompanying schedules, of Anchor Capital, Inc. for the calendar year 2009. The return was false and fraudulent as to a material matter, in that the return under reported interest income in the amount of \$384,195.00; in violation of Title 26, United States Code, Section 7206(2).

Count Eight

Conspiracy to Defraud the United States; 18 U.S.C. § 371

Beginning about March 10, 2005 and continuing until late December 2016, in the Eastern District of Michigan and elsewhere, TONY BRATTAIN, did conspire and agree with other individuals, known and unknown to the Grand Jury, to defraud the United States for the purpose of impeding, impairing, obstructing, and defeating the lawful government functions of the Internal Revenue Service of the Treasury Department, in the ascertainment, computation, assessment, and collection of revenue, that is, income taxes.

The manner and means by which the conspiracy was sought to be accomplished included, among others, that TONY BRATTAIN and others created corporations and other legal and financial documents to disguise and conceal TONY BRATTAIN'S involvement in the ownership and development of properties located in Costa Rica. It was further part of the conspiracy that TONY BRATTAIN willfully failed to accurately report income that was derived from activities in Costa Rica.

In furtherance of the conspiracy, and to effect the objects thereof, the following overt acts, among others, were committed in the Eastern District of Michigan and elsewhere:

1. On or about March 10, 2005, Tony Brattain and John Kean filed documents to create and incorporate a company known as Fayette Properties of CR Sociedad Annima.

2. On March 10, 2005, Fayette Properties acquired land in Jaco, Costa Rica.

3. On September 30, 2005, James Gray opened a bank account in Flint, Michigan, for Mainstream Design LTD.

4. On October 4, 2005, Tony Brattain and John Kean filed documents to incorporate a company called Intelligence Communications.

5. On October 4, 2005, Tony Brattain sent James Gray a wire transfer of \$340,000 for the purchase of property in Jaco, Costa Rica by Intelligence Communications.

6. On December 13, 2006, James Gray opened a bank account in Flint, Michigan, for Vista Azul International Developer.

7. On or about January 16, 2007, Tony Brattain revised the accounting for Vista Las Palmas regarding the recording of real estate in Costa Rica as a fixed asset.

8. On May 10, 2007, James Gray opened a bank account in Flint, Michigan, for Vista Las Palmas International Developer.

9. On or about December 9, 2007, Tony Brattain and John Kean, through Anchor Capital, sent a loan advance in the amount of \$500,000 to Vista Las Palmas in Costa Rica.

10. On June 24, 2008, \$213,000 was wire transferred into the Vista Las Palmas International Developer account. James Gray subsequently wire transferred the money into the Vista Las Palmas HSBC bank account in Panama.

11. On March 19, 2009, \$274,602.96 was wire transferred into the Vista Las Palmas International Developer account. James Gray subsequently wire transferred the money into the Vista Las Palmas HSBC bank account in Panama.

12. On or about October 20, 2010, Tony Brattain filed with the Internal Revenue Service, a 2008 Form 1040X Amended Individual Income Tax Return.

13. On or about October 20, 2010, Tony Brattain filed with the Internal Revenue Service, a 2009 Form 1040 Individual Income Tax Return.

14. On or about April 10, 2011, Tony Brattain filed with the Internal Revenue Service, a 2010 Form 1040 Individual Income Tax Return.

15. On or about July 2, 2014, James Gray, Tony Brattain and John Kean met to discuss development of the Vista Azul property in Costa Rica.

16. On or August 21, 2014, Tony Brattain sent via email to James Gray and John Kean a write-up for the Vista Azul development.

17. On or about October 15, 2014, James Gray, Tony Brattain and John Kean met to discuss development of the Vista Azul property in Costa Rica.

18. On or about March 19, 2015, James Gray, at the direction of Tony Brattain, signed a contract with RSA Design Group of Costa Rica to design architectural and engineering plans for Vista Azul.

19. Sometime in December 2016, Tony Brattain went to Costa Rica and met with Guillermo Zunniga. During the meeting Tony Brattain gave Guillermo Zunniga an affidavit to be executed by Kimberly Laferier-Sanson.

All in violation of Title 18, United States Code, Section 371.

THIS IS A TRUE BILL.

s/FOREPERSON

Dated: April 18, 2018

MATTHEW SCHNEIDER
United States Attorney

s/NANCY A. ABRAHAM (P42060)
Assistant United States Attorney
600 Church Street
Flint, MI 48502
(810) 766-5177

s/ANTHONY P. VANCE
Assistant U.S. Attorney
Chief, Branch Office

(Companion Case information MUST be completed by AUSA and initialed.)

United States District Court
Eastern District of Michigan**Criminal Case Cover Sheet****Case Number 18-cr-20107**

NOTE: It is the responsibility of the Assistant U.S. Attorney signing this form to complete it accurately in all respects.

Companion Case Information	Companion Case Number:
This may be a companion case based upon LCrR 57.10 (b)(4) ¹ :	Judge Assigned:
<input type="checkbox"/> Yes <input type="checkbox"/> No	AUSA's Initials: NAA

Case Title: U.S. v Tony Brattain

County where offense occurred : Genesee County and elsewhere

Check One: Felony Misdemeanor Petty

Indictment/ Information --- no prior complaint.
 Indictment/ Information --- based upon prior complaint [Case number:]
 Indictment/ Information --- based upon LCrR 57.10 (d) [Complete Superseding section below].

Superseding Case Information

Superseding to Case No: 18-cr-20107

Judge: Parker

Corrects errors; no additional charges or defendants.
 Involves, for plea purposes, different charges or adds counts.
 Embraces same subject matter but adds the additional defendants or charges below:

<u>Defendant name</u>	<u>Charges</u>	<u>Prior Complaint (if applicable)</u>
	Conspiracy to defraud the United States 18 U.S.C. Sec. 371	

Please take notice that the below listed Assistant United States Attorney is the attorney of record for the above captioned case.

April 18, 2018

Date



NANCY A. ABRAHAM
Assistant United States Attorney
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Flint, MI 48502
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Fax: 810-766-5427
Attorney Bar # P42060

¹ Companion cases are matters in which it appears that (1) substantially similar evidence will be offered at trial, or (2) the same or related parties are present, and the cases arise out of the same transaction or occurrence. Cases may be companion cases even though one of them may have already been terminated.